RECENT IMPORTANT DECISIONS

BANKRUPTCY—ASSIGNMENT—VALIDITY—POSSESSION OF RES.—E. F. Young, the bankrupt, had sold real estate to Chas. W. Priddy, incorporated, of Norfolk, Va., for the payment of which he was to receive Norfolk city bonds. By request of Young, the defendant bank had lent $10,000 to another bank and an equal amount to a manufacturing company. In consideration of these loans, Young orally agreed with the defendant, on December 9, 1903, to transfer to it the Norfolk bonds when he should receive them. On February 9, 1904, Young and the defendant entered into a written agreement whereby the former agreed to transfer to the latter the aforesaid bonds. Bankruptcy proceedings were instituted against Young on June 4, 1904, and he was duly adjudged a bankrupt. His trustees bring this action to recover the interest of Young's estate in the bonds. *Held,* that the assignment was a valid equitable one. *Godwin et al.* v. *Murchison Nat. Bank et al.* (1907), — N. C. —, 59 S. E. Rep. 154.

There was no allegation of fraud in the transaction between the parties in December, nor that there was any intent to evade the policy of the bankrupt act. This being true, the court held that an equitable lien was created in favor of the defendant, which would attach to the bonds as soon as they came into Young's hands. The general rule is that the trustee in bankruptcy takes the property subject to all the rights and equities in favor of third persons against the bankrupt. In *York Mfg. Co.* v. *Cassell,* 201 U. S. 344, the plaintiff company had sold machinery to the bankrupt corporation on certain conditions, among which was one that title should remain in the vendor till the purchase price was fully paid. The question was whether the Manufacturing Co. had the right, under its unrecorded conditional sale, to remove the machinery as against all except those who were creditors by some specific lien on it. It was held that the adjudication in bankruptcy was not equivalent to a judgment or other specific lien on the machinery, and that the plaintiff corporation might therefore remove the machinery. The validity of an assignment, unless contrary to the bankrupt act, is determined by local law. *Thompson* v. *Fairbanks,* 196 U. S. 516. The fact that the bonds were not in Young's possession at the time of the agreement to transfer them made no difference under the policy of North Carolina. *Brown* v. *Dail,* 117 N. C. 41. This rule is also followed in New York. *Sturges* v. *Edwards,* 40 Barb. (N. Y.) 279. A mortgage given to cover all machinery and tools the mortgagor might acquire within a prescribed time, as well as that in possession at the time of executing it, is valid and creates an equitable lien as against the assignee. *Mitchell* v. *Winslow et al.,* Fed. Cas. 9673. But an agreement made more than four months prior to bankruptcy to pledge property as security for a debt is not valid as against the trustee, unless the property be turned over to the pledgee prior to the prescribed time. *In re Sheridan et al.,* 98 Fed. 406. Where the statute requires a conveyance to be recorded in order to be good as against any class of persons, time begins to run from the

recording of the conveyance or transfer, not from the time of actual transfer. *Loeser* v. *Bank & Trust Co.*, 148 Fed. 975. *In re Great West. Mfg. Co.*, 152 Fed. 123.

CARRIERS—ASSAULTS BY EMPLOYEES ON PASSENGERS.—Plaintiff and three friends boarded one of defendant's street-cars, plaintiff taking a seat alone. Following a dispute as to fare, in which plaintiff took no part, the conductor ejected one of the party and then engaged in a fight with him outside the car. Plaintiff stepped from the car to separate them, whereupon the motorman knocked him down and beat him; the two then put him on the car and took him to the police station, where he was placed under arrest. In an action against the company, *Held,* defendant was not liable for the motorman's assault, plaintiff's injuries having been received outside the car in a voluntary intervention in a quarrel as to which defendant owed him no duty. *Zeccardi* v. *Yonkers R. Co.* (1907), — N. Y. —, 83 N. E. Rep. 31.

The decision (from which two judges vigorously dissent) seems to modify the holding in *Stewart* v. *Brooklyn, Etc., Ry. Co.*, 90 N. Y. 588, and *Dwinnele* v. *N. Y. C. and H. R. R. R. Co.*, 120 N. Y. 117, where it is held that the duty of the carrier to protect his passenger from assaults by his servants is, in fact, absolute, and that the question whether or not the servant is acting within the scope of his authority can not be raised in such cases. Plaintiff is conceded to have been a passenger at the time of the assault, guilty of no misconduct, but, nevertheless, had placed himself where the defendant owed him no duty and no protection. No consideration is given to the forcible detention and subsequent arrest of plaintiff, and no cases are cited in support of the opinion. The special liability of the carrier for the torts of his servants has been asserted in *Nieto* v. *Clark,* 1 Cliff. 145; *R. R. Co.* v. *Van Diver,* 42 Pa. St. 365; *Craker* v. *C. and N. W. R. R. Co.*, 36 Wis. 657; *T. H. R. R. Co.* v. *Jackson,* 81 Ind. 21; *Peebles* v. *B. R. R. Co.*, 60 Ga. 282; *McKerly* v. *C. and N. W. R. R. Co.*, 44 Ia. 314; *C. and E. R. R. Co.* v. *Flexman,* 103 Ill. 546; *Bryant* v. *Rich,* 106 Mass. 180; *Goddard* v. *Grand Trunk R. Co.*, 57 Me. 213, and is the rule in Kentucky, Tennessee, Minnesota, Missouri, Texas, and West Virginia. The liability of the employer has been enforced where a conductor called a passenger outside the car and assaulted him; where a passenger accosted a porter outside the car and was knocked down; where a passenger was followed by a conductor to the offices of the company and there assaulted. New York has been classed among the states which have adopted this rule of absolute liability of the carrier for the torts of his servants; but this holding of its highest court would indicate that it is to be applied with limitations.

CONSTITUTIONAL LAW—FOREIGN CORPORATIONS—INTERSTATE COMMERCE.—A Pennsylvania corporation contracted with a citizen of Wisconsin for the furnishing, by the usual transportation agencies, of instruction continuously for a considerable period of time, and agreed to furnish him with a complete set of instruction papers in pamphlet form, and drawing plates, to be